

superseding law that commits all persons convicted of crimes to "the jurisdiction of the Division of Correction", notwithstanding any law requiring the imprisonment to be served at a specific State correctional facility. See CS § 9-103(a). The only remaining substantive effect of a reference to imprisonment "in the penitentiary" applies to "penitentiary misdemeanors", which: (1) are not subject to the 1-year limitation period for other misdemeanors; and (2) are subject to the right of in banc review under Md. Constitution, Art. IV, § 22. Section 5-106(b) of the Courts Article specifically addresses these two characteristics of penitentiary misdemeanors.

The former law used the terms "crime" and "offense" interchangeably to mean a felony or a misdemeanor under the laws of the State, with no consistent rationale for choosing one or the other. In order to provide uniform language in this revision and for consistency with the Criminal Procedure Article, the Criminal Law Article Review Committee chose to use the term "crime" to mean a particular act prohibited as a felony or misdemeanor, and the term "violation" to refer to a particular instance of a crime. In a few instances, the term "offense" is retained because of common usage, such as the term "sexual offense", which is revised in Title 3, Subtitle 3 of this article.

The common-law distinction in pleading between charging a principal of a crime and an accessory before the fact to the crime has been abolished for most purposes by statute, in response to the holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). See CP § 4-204, enacted by Ch. 339, Acts of 2000. Accordingly, since most of the former references to an "accessory" in the material revised in this article referred only to accessories before the fact, and not to accessories after the fact, in those instances the references to an "accessory" are deleted. See, e.g., § 3-503(a)(1) of this article; cf. § 8-408(c)(3) of this article.

Several provisions are repealed as unconstitutional in accordance with federal and State case law. Former Art. 27, § 20, which prohibited blasphemy, violated the Establishment and Free Exercise Clauses of the First Amendment of the United States Constitution. *State v. West*, 9 Md. App. 270 (1970). Former Art. 27, §§ 152 and 153, which prohibited employing or allowing "female sitters", violated Article 46 of the Maryland Declaration of Rights. *Turner v. State*, 299 Md. 565 (1984). Former Art. 27, §§ 558, 559, and 560, which prohibited "common thieves", a criminal sanction on the basis of status or reputation, would have constituted "a cruel or unusual punishment in violation of the Fourteenth Amendment" to the United States Constitution. *Robinson v. California*, 370 U.S. 660 (1962). See Letter of Advice from Attorney General J. Joseph Curran, Jr. to Judge Alan M. Wilner, pp. 1-2 (October 17, 2000).

The Committee considered several provisions involving minor penalties to be more suitable for revision in other articles relating to the same substantive law, or in the case of provisions applicable to one county or a few counties, in the Public Local Laws.

Former Art. 27, § 21, as it established speed limits on Seneca Creek in Montgomery County and on specified portions of the Monocacy River, respectively, is revised in NR §§ 8-725.5 and 8-725.6, respectively.

Former Art. 27, § 21, as it prohibited reckless boating, is revised in NR § 8-738.1.